

# Montana Trial Lawyers ASSOCIATION

ORIGINAL FILED

July 14 2008

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

FILED

JUL 14 2008

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

## Officers:

Michael P. Sand  
President  
James P. Molloy  
President-Elect  
Sydney E. McKenna  
Vice President  
Roger Sullivan Jr.  
Secretary-Treasurer

## Directors:

Wade Dahood  
Director Emeritus  
Roberta Anner-Hughes  
Elizabeth A. Best  
Daniel B. Bidegaray  
Zander Blewett  
Daniel P. Buckley  
James P. Carey  
Michael D. Cok  
E. Craig Daue  
Amy Poehling Eddy  
Michael J. George  
Heather M. Latino  
Sydney E. McKenna  
Michael J. McKeon  
James P. Molloy  
Michael P. Sand  
J. David Slovak  
Roger Sullivan Jr.

## ATLA Representatives:

Lawrence A. Anderson  
ATLA Governor  
William A. Rossbach  
ATLA Governor  
Joe R. Bottomly  
ATLA State Delegate  
Kurt M. Jackson  
ATLA State Delegate

## Executive Offices:

Al Smith  
Executive Director  
Mary Correia Taylor  
Education Coordinator  
32 S. Ewing, Suite 306  
P.O. Box 838  
Helena, Montana 59624  
Tel: (406) 443-3124  
Fax: (406) 449-6943  
E-mail: mtla@mt.net  
Website: www.monttla.com

July 9, 2008

Montana Supreme Court  
P.O. Box 203003  
Helena, Montana 59620-3003

RE: Proposed 2008 Montana Code of Judicial Conduct

Dear Members of the Court:

First, our thanks to the Commission and the Court for it's efforts in bringing forth the proposed 2008 Montana Code of Judicial Conduct. Your work is appreciated.

It has come to our attention that Rule 3.10 of the proposed 2008 Montana Code of Judicial Conduct would preclude attorneys from becoming judges in lower courts unless they also refrain from the practice of law. While the judicial pay in some jurisdictions is sufficient, in others the pay is such that attorneys need the additional income from a limited legal practice to make ends meet.

To our knowledge, current Rule 31 of the Canons of Judicial Ethics has been sufficient to assure the integrity of the judicial system in those instances where a lower court judge was also a practicing attorney. We are unaware of any cases where lower court judges/attorneys have abused their office through the practice of law, or in any other way impugned the integrity of their office through the practice of law.

We would like to suggest that the Court either delay implementing Rule 3.10 to gather further information on the impact it would have, or that Rule 3.10 be amended to reflect the private practice restrictions and safeguards contained in current Rule 31, pending further review of the need for such a substantial change.

Thank you for your time and consideration.

Sincerely,



Michael Sand,  
President